



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

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July 13th, 1998

Minutes of the July 13th, 1998, meeting of the Commission on Governmental Ethics and Election Practices held in Room 113, State Office Building, Augusta, Maine.

Present: Chairman Peter B. Webster; Members Linda W. Cronkhite, Harriet P. Henry, and G. Calvin Mackenzie; Director William C. Hain, 111; Counsel Phyllis Gardiner; and Lobbyist Registrar Annette Jones.

Absent: Member Merle R. Nelson

Chairman Webster called the meeting to order at 10:35 a.m.

The minutes of the June 10th, 1998, meeting were approved as submitted.

The Director introduced two new Commission staff employees: Ms. Melissa Caron, new Commission Assistant, formerly on the staff of the Bureau of Corporations, Elections, and Commissions of the Secretary of State; and Mr. Matthew Smith, a Georgetown University sophomore and temporary summer intern who is preparing a Commission Internet web site, databases of candidates, PACs, and lobbyists, and a searchable database of Commission meeting minutes and opinion letters.

Agenda Item #2:

Ms. Margaret Cote appeared on behalf of Maine Citizens for Access, Safety and Independence Political Action Committee (PAC), and requested the Commission's reconsideration of its decision at the May meeting to refer the collection of unpaid penalties to the Attorney General's office for appropriate action. Mr. Hain reviewed the chronology of events leading up to the May Commission action and the penalties that had been assessed to date. Ms. Cote explained the PAC's actions to submit its reports in a timely manner without explanation of why the Commission had not received them by the required dates. Ms. Cronkhite observed that the late period for one report was too long. Mr. Mackenzie asked if the appropriate procedure would be a motion to reconsider the Commission's previous action, to which Chairman Webster responded affirmatively. No such motion forthcoming, Chairman Webster announced that the Commission's action taken at the May meeting would stand, and that the matter of the unpaid penalties would be referred to the Attorney General for appropriate action. Ms. Cote inquired whether the penalties could still be paid and how soon that would be required, to which

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Chairman Webster responded that the referral would be held in abeyance pending the PAC's payment of the penalties as soon as possible.

Agenda Item #3:

Mr. Hain reported the exchange of correspondence with Senator Lawrence, including his agreement with Senator Lawrence's interpretation of the statutory provision in question and Senator Lawrence's acknowledgment that he had not registered his candidacy on time and intent to pay the late registration penalty without objection.

Judge Henry requested to know how Commission Staff handled telephone inquiries. Mr. Hain responded that Staff practice is to request that substantive, non-routine questions be submitted in writing when response time permits; but that routine, non-controversial questions are usually answered orally.

Agenda Item #4:

The Commission was scheduled to reconvene at 1:30 in public hearing to review the rulemaking proposal implementing the Maine Clean Election Act and to hear public comments. Mr. Hain advised that Staff has received sporadic requests for copies of the proposed rule, and that he anticipated approximately two dozen attendees at the afternoon hearing. On the subject of the scheduling of an evening hearing, Judge Henry stated that she did not recall any legislative hearings being held at night. Mrs. Cronkhite inquired about who, other than legislators, had requested a copy of the draft rule, to which the response of PACs and lobbyists was provided. Chairman Webster noted that the Commission had complied with all State statutory requirements on rulemaking, that extensive press releases had been issued, and that there had been good media coverage of the public hearing schedule and open comment period to follow. Chairman Webster inquired about the basis in the rulemaking notice for the reference to a fiscal impact of \$1 million or more, regarding which the statutory requirement was explained. The only fiscal impact (except for the Commission Staff in conjunction with other State agencies) of the proposed rule is expected to be on town election officials.

Agenda Item #5:

Mr. Hain and Mr. Mackenzie briefed the Commission on the status of the electronic filing project, including a meeting scheduled for the following week with a New Jersey based company that markets electronic filing software. After the adoption of the Clean Election Act rule, the electronic filing project will assume a higher priority. In response to Judge Henry's question, the Commission was informed that a public access computer terminal will be available in the Staff office, as well as terminals that are in public libraries for general citizen access to the Internet.

Agenda Item #6:

Mr. Jonathan Carter had called Commission Staff earlier in the morning to inform that other pressing business prevented his scheduled appearance, and he requested that his appearance be rescheduled for the August meeting. The Commission reviewed his request and after discussion authorized Mr. Hain to discuss with Mr. Carter the submission of affidavits by Mr. Carter and his PAC's former Treasurer, if available, attesting to the status of the PAC's liabilities. If such affidavits are submitted and their contents fully explain the PAC's financial status, and after



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discussion with Counsel Gardiner and Chairman Webster, the Commission authorized Mr. Hain to accept the Termination Report for Mr. Carter's PAC. If any affidavit that may be submitted by Mr. Carter is determined to be inadequate to determine the financial status of the PAC, Mr. Carter will be invited to appear before the Commission to address the issue.

Agenda Item #7:

Mr. Hain advised that District Attorney Anderson's complaint appeared moot, based on previous Commission decisions and the fact that the complainant had used letterhead similar to that about which she now complained in her previous campaign. Chairman Webster confirmed that the Commission is without authority to act based on previous advice of counsel. Mr. Mackenzie moved, and Mrs. Cronkhite seconded, that the complaint be dismissed. The motion carried unanimously.

Agenda Item #8:

The Commission discussed how to handle complaints of violations of the attribution requirement that may be received after an election and after the time in which a violation may be cured. A sternly worded warning to a violator to educate and prevent future violations was suggested. Mr. Hain recommended no further action in the instant case.

Agenda Item #9:

Mr. Hain briefed Members about the submission of the 1998 Regulatory Agenda, and confirmed Chairman Webster's inquiry regarding the annual filing requirement.

Agenda Item #10:

The Commission authorized Mr. Hain to attend the 1998 annual COGEL Conference in Seattle, WA, during the period September 13-16, 1998. Chairman Webster informed Members of the location of the 1999 COGEL Conference as Providence, RI.

Agenda Item #11:

Counsel Gardiner recommended that the Commission adjourn to Executive Session to receive her oral briefing on the lawsuit filed by the Maine Campground Owners Association and the Maine Civil Liberties Union against the Commission and the Attorney General. The recommendation was agreed to unanimously. Following the briefing, the Commission voted to go out of executive session. Counsel Gardiner was authorized to acknowledge service of process of the lawsuit on behalf of the Commission Members.

Mr. Hain raised the problem of the receipt by the Commission Staff of mail by the statutory due date. The reporting requirements generally require that reports be submitted to be received by the Commission not later than a specified time and date. Tele-faxed copies and certified posting is also permitted, giving the submitter some flexibility in meeting the required deadline. A problem arises when a letter is postmarked on a date that would appear to be sufficient to be received by the Commission on time, but for some reason it is not. Discussion of the problem resulted in no action to recommend changing the existing statutory language.



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Judge Henry suggested that public libraries be alerted regarding the electronic filing of reports to the Commission and the potential impact that may have on their public computer resources.

Judge Henry inquired about the status of the reappointments of Members Nelson and Cronkhite, and Mrs. Cronkhite informed Members that the reappointments were in progress and that a confirmation hearing would be scheduled in August.

On motion and unanimous agreement, the Commission adjourned at 12:00 p.m.